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PUBLIC VERSION

December 5, 2001

Ms. Gloria Blue
Executive Secretary
Trade Policy Staff Committee
Office of the United States Trade Representative
Room 501
600 17th Street, N.W.
Washington, D.C. 20508

**Business Confidential Treatment is
Requested for Information Deleted
from Brackets on the Following Pages:
5-10 and Exhibit 1.**

Attention: Mr. Andrew Stephens, Director for Steel Trade Policy

**Re: *Comments of The Timken Company on Requests to Exclude Products
from Import Relief for Certain Steel Products Under Section 203:
Certain Bearing Quality Steel, Certain Bar Products, and Certain Steel
Billets.***

Dear Ms. Blue:

On October 26, 2001, the Office of the U.S. Trade Representative, Trade Policy Staff Committee (TPSC), published a notice in the *Federal Register* inviting written responses to requests for the exclusion of specific products from any action under section 203 of the Trade Act of 1974, as amended (19 U.S.C. 2253). 66 Fed. Reg. 54321. By *Federal Register* notice dated November 29, 2001, the TPSC extended the deadline for such responses to December 5, 2001. 66 Fed. Reg. 59599.

On behalf of The Timken Company (Timken) of Canton, Ohio, a U.S. producer of steel products covered by the Section 201 investigation of steel imports (ITC Inv. No. TA-201-73), we hereby respond to certain product exclusion requests that relate to products that Timken makes or competes with. Timken supports the granting of Section 203 relief to the domestic steel industry

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which the International Trade Commission has determined to be injured by imports.¹

We note that a number of product exclusion requests have not been posted on the USTR's website until late in the response period. To the extent any product exclusion requests have not been posted on the USTR website as of the date of this submission, Timken reserves the right to make a timely response to such requests after posting.

Pursuant to USTR's request, we are submitting one (1) copy of Timken's business confidential response and one (1) copy of the public version response.

Request for Business Confidential Treatment

Pursuant to 15 C.F.R. § 2003.6, we request confidential treatment for the confidential business information that appears in brackets on pages 5-10 and Exhibit 1 of the submission. The data for which confidential treatment is requested consists of business confidential information relating to Timken's production volumes and sales values for particular products. This information is not otherwise publicly available and public disclosure would cause substantial business harm to Timken.

¹ See United States International Trade Commission Press Release detailing its determinations concerning impact of imports of steel on U.S. industry (10/23/01) (Inv. No. TA-201-73).

Executive Summary

The Timken Company has reviewed those exclusion requests that have been filed at the USTR and that have been made available to it to date. It herein responds to those requests that identify products that it manufactures or competes with in the U.S. market. Timken reports that it makes significant quantities of “ball bearing steel” in sizes 1 inches and greater, and that it is a domestic producer of carbon and alloy steel hot rolled and cold finished bars greater than 6 inches in diameter, and of carbon steel billets. The ITC has found that the domestic industry that makes these products has suffered serious injury.² There is no factual or legal basis for the President to exclude these products from import relief under Section 203. The Timken Company urges the USTR not to recommend that the President exclude these products from any Section 203 remedy.

² United States International Trade Commission Press Release detailing its determinations concerning impact of imports of steel on U.S. industry (10/23/01) (Inv. No. TA-201-73).

Table of Contents

	Page
I. Introduction	1
II. Ovako and Ascometal Product Exclusion Requests Respecting Bearing Quality Steel	2
<i>A. The Product for Which Exclusion Is Sought.</i>	2
<i>B. Why These Products Should Not Be Excluded.</i>	5
1. “Ball Bearing Steel” Is Not a Separate like Product.	5
2. The Majority of Timken’s 52100 Steel Bars Are Sold to Unrelated Customers.	7
III. ISTIL Product Exclusion Request Respecting Bars Over 6.5" in Diameter	8
IV. Ascometal Product Exclusion Request Respecting Certain Large Bar	9
V. Universal Bearings, NTN, USA, and Ascometal Product Exclusion Requests Respecting Wire Rod and Bar	10
VI. Thyssen Product Exclusion Request Respecting Carbon Steel Billets	12
VII. NTN Product Exclusion Requests Respecting Bearing Quality Bar, Hot Round Bar, and SBM40	13
<i>A. General</i>	13
<i>B. Bearing Quality Bar</i>	13
<i>C. Special Bearing Quality Steel Bar</i>	14
<i>D. Hot Rolled Round Bar</i>	15
<i>E. SBM40</i>	16
VIII. Conclusion	16

I. INTRODUCTION

In general, Timken believes there should be no product exclusions unless complete descriptive information and import data has been provided for the product. The USTR needs this information so that it may seek supplemental findings by the Commission on any product it intends to exclude which has been included in the Commission's injury determination. Absent a supplemental determination by the Commission that the domestic industry is seriously injured by imports even when certain products are excluded from the injury analysis, the Commission's injury decision is likely to be challenged at the WTO.

Timken herein is specifically responding to the product exclusion requests filed on November 13, 2001 on behalf of the following parties:

- (1) Ovako Ajax, Inc. and Ovako Steel AB;
- (2) ISTIL (Ukraine) Ltd.;
- (3) Ascometal Co.;
- (4) Universal Bearings;
- (5) Thyssen Specialty Steels; and
- (6) NTN, USA.

To the extent that any other exclusion requests cover the Timken steel products described herein, this filing also opposes such requests.

The Timken Company's primary businesses are the manufacturing of bearings and of steel. Timken's Steel Business produces specialty steel, precision steel components, and alloy and carbon steel bar. Timken's Steel Business produces certain steel products which the

International Trade Commission has found to be harmed by imports.³

II. OVAKO AND ASCOMETAL PRODUCT EXCLUSION REQUESTS RESPECTING BEARING QUALITY STEEL

A. *The Product for Which Exclusion Is Sought.*

Ovako⁴ and Ascometal⁵ both seek exclusion of bearing quality steel. Ovako's request encompasses "ball bearing steel"; Ascometal's request addresses "certain bearing quality alloy bar used in rings and races."⁶ Because Timken produces or competes with the products sought to be excluded by Ovako and Ascometal, the TPSC should reject their request. The following addresses Ovako's specific arguments but applies equally to Ascometal's request.

Ovako acknowledges that the International Trade Commission has determined that certain carbon and alloy long products -- hot-rolled bar and light shapes and cold-finished bar -- are included in the products for which the Commission made an affirmative injury determination on October 22, 2001 and that included among these products are those that Ovako seeks to have excluded from any Section 203 remedy.⁷ Ovako argues that "ball bearing steel" is a distinct "like" product that should be excluded from a Section 203 remedy because the commission did not make a separate injury determination for it.

Because Ovako did not provide the information requested by the Trade Policy Staff Committee,⁸ and, as a means of defining those products which Timken believes should be

³ *Id.*

⁴ See Ovako Request for Exclusion of Ball Bearing Steel (November 13, 2001) at 1 ("Ovako ER").

⁵ See Ascometal Request for Exclusion of Certain Bearing Quality Alloy Bar (November 13, 2001) at 1.

⁶ See Ascometal Request for Exclusion of Certain Bearing Quality Alloy Bar (November 13, 2001) at 1.

⁷ See Ovako Request for Exclusion of Ball Bearing Steel (November 13, 2001) at 1.

⁸ Ascometal's request is limited to products classified under 7228.30.2000 HTS. Ascometal provided information regarding U.S. imports but no other information as to U.S. production. See *id.*

included in any remedy, Timken here provides the information sought in connection with exclusion requests to the extent that it has that information readily available (*see* 66 Fed. Reg. at 54322-23):

(a) **Product Designation:** “ball bearing steel” conforming to the 52100 and/or ASTM A 295 specification, imported under HTS numbers 7227.90.1030, 7227.90.2030, 7228.30.2000, 7228.50.1010, or 7228.60.1030.

(b) **Product Description:** Steel whose physical characteristics conform to the definition of “ball bearing steel” contained in the HTS notes. Specifically:

Alloy tool steels which contain, in addition to iron, each of the following elements by weight in the amount specified:

Not less than 0.95 nor more than 1.13 percent of carbon

Not less than 0.22 nor more than 0.48 percent of manganese

None, or not more than 0.03 percent of sulfur

None, or not more than 0.3 percent of phosphorus

Not less than 0.18 nor more than 0.37 percent of silicon

Not less than 1.25 nor more than 1.65 percent of chromium

None, or not more than 0.28 percent of nickel

None, or not more than 0.38 percent of copper, and

None, or not more than 0.09 percent of molybdenum.

The steels that meet this specification are also typically referred to as 52100 steels. In addition, **the diameter of the product must be 1 (1.875) inches or greater.**

(c) **Basis for Inclusion:** The Timken Company is a domestic producer of the like or competitive product with diameters equal to or in excess of 1 inches, and limits its comments in this section to products 1 (1.875) inches and greater in diameter.

(d) The Producers:

In the United States:

- The Timken Company, Canton, Ohio
- Republic Technologies International, Akron, Ohio
- MacSteel Division of Quanex, Houston, Texas
- Ispat Inland, Chicago, Illinois
- North Star, Minneapolis, Minnesota

In foreign countries:

- ABS (Italy)
- Ascometal-Fos (France)
- Asil Celik (Turkey)
- Corus - Rotherham (England)
- Corus - Stocksbridge (England)
- COS - Tirgoviste (Romania)
- Dalian Iron & Steel (China)
- Fushun (China)
- Izhstal (Russia)
- Kalyani (India)
- KIA (Korea)
- Kobe (Japan)
- Lucchini - Warsaw (Poland)
- Mannesman (Brazil)
- Mechel (Russia)
- MUSCO (India)
- Nedstaal (Netherlands)
- Nippon Steel (Japan)
- Ovako (Sweden)
- Piratini - Gerdau (Brazil)
- POSCO (Korea)
- SAIL-Alloy Steel Plant (India)
- Sanyo Specialty Steel (Japan)
- Shanghai No 5 (China)
- Tata Iron & Steel Co. (India)
- Villares (Brazil)
- Voest - Alpine (Austria)

(Note: these are the producers that Timken is aware of; there may be others.)

(e) Total Consumption of 52100 bar steel greater than 1 inches in diameter:

Not Available.

(f) Total U.S. Production, The Timken Company:

Table 1: Timken Sales of 52100 Bar Steel > or = 1 inches in Diameter ⁹ (Indexed Numbers)		
Year	Tons	Value
1996	[100	\$100]
1997	[45	\$45]
1998	[35	\$35]
1999	[25	\$20]
2000	[60	\$45]
2001	[40	\$35]

(g) The identity of any U.S.-produced substitutes. N/A.

B. Why These Products Should Not Be Excluded.

Ovako makes two arguments in support of its claim for exclusions: (1) because “ball bearing steel” constitutes a separate “like” product such that the ITC should have conducted a separate injury analysis; and (2) “ball bearing” steel produced in the United States does not compete with imported “ball bearing steel.” Timken addresses each of these arguments.

1. “Ball Bearing Steel” Is Not a Separate like Product.

Ovako argues that “ball bearing steel” constitutes a separate “like product” based on the five factors that the Commission examines for like product purposes.¹⁰ Its analysis is not supported by the facts. It first considers physical properties. *Id.* at 3. It argues that because a product that is used to make bearings must be able to be rotated over a billion times, the steel used to make bearings must be extremely clean and have a chemical composition that yields maximum fatigue strength. *Id.* This is certainly true. However, these physical requirements do

⁹ Data Source: *see* Affidavit of [James Holderbaum] attached as Exhibit 1 (hereinafter “Affidavit”). Note all 2001 data in this and other tables is for first ten months of 2001.

¹⁰ Ovako Request for Exclusion of Ball Bearing Steel (November 13, 2001) at 3-6.

not necessarily and do not in fact in this instance define a separate like product. In its discussion of Customs Treatment, Ovako identifies "ball bearing steel" as the steel that conforms to the specifications identified in the Additional U.S. Notes to Chapter 72 of the HTS. *Id.* at 5. As the Affidavit states (at 2) and Table 2 shows, there are other non-bearing applications for 52100 steel.

Table 2: Timken Sales of 52100 Bar Steel > or = 1 Inches in Diameter Bearings v. Other Applications¹¹ (Indexed Numbers)					
Year	Tons	Value	Bearing App. Tons	Bearing App. Value	Brg Apps as % of Total
1996	[100	\$100	410	\$470	%]
1997	[45	\$45	110	\$120	%]
1998	[35	\$35	100	\$100	%]
1999	[25	\$20	80	\$70	%]
2000	[60	\$45	130	\$30	%]
2001	[40	\$35	40	\$30	%]

At the same time, as the Affidavit also indicates, other steels (*i.e.*, steels that do not conform to the "52100" specification and do not fall into the HTS definition of "ball bearing steel") are used to make bearings. Affidavit at 1. Thus, contrary to Ovako's argument, 52100 steel is not the only steel with the physical characteristics necessary to make bearings; nor are bearings the only application for 52100 steel.

Ovako then asserts that the existence of a specific definition in the HTS Notes for "ball bearing steel" makes it unique because it distinguishes such steel from all other steels. *Id.* at 5. However, the HTS definition does not include all steels that may be used to make bearings. *See* Affidavit at 1.

Ovako then asserts that certain production processes are unique to the manufacture of

¹¹ Data Source: *see* attached Affidavit. Note all 2001 data in this and other tables is for first ten months of 2001.

“ball bearing steel,” including “vacuum degassing.” This process and others employed to make 52100 steel are also employed to make other kinds of steel. *See* Affidavit at 2. As is stated therein, Timken produces many different alloy steels on the same facilities it uses to make “ball bearing steel.” *Id.* Thus, the production process does not distinguish these steels.

Ovako concludes its like product argument by stating that "ball bearing steel" has unique end uses and marketing channels because it is used to make bearings and marketed to bearing manufacturers. Timken's own [**describes other applications for bearing steel**]

See Table 2 above and Affidavit at 2-3. In fact, bearings account for [**a certain percentage of end uses for 52100 steel**] To reach its customers with different applications, Timken distributes through different market channels. Affidavit at 2. 52100 steel sold for use in automobiles is sold through a different channel than that sold to produce bearings and bearing parts. *Id.*

In sum, Ovako's analysis does not demonstrate that “ball bearing steel” should be treated as a separate like product for purposes of these investigations. The Commission did not treat it as such, and the USTR should not break it out for purposes of the 203 remedy.

2. The Majority of Timken's 52100 Steel Bars Are Sold to Unrelated Customers.

Ovako asserts as a second basis for exclusion that Timken produces “ball bearing steel” for its own production of bearings. Ovako ER at 8. Consequently, according to Ovako, imported “ball bearing steel” does not compete with Timken's production of "ball bearing steel." *Id.* As Table 3 below and the attached Affidavit show (at 3), in each of the past five years and ten months, Timken has sold over [%] of its production of 52100 steel to unrelated

customers.¹² Thus, imported “ball bearing steel” competes directly with Timken’s “ball bearing steel” at customer accounts, and it should not be excluded from Presidential Action to provide import relief under Section 203 of the Trade Act of 1974, as amended (19 U.S. § 2253).

Table 3: Timken Sales of 52100 Bar Steel > or = 1 Inches in Diameter External Sales¹³ (Indexed Numbers)					
Year	Tons	Value	Sold To Non-Timken Customers: Tons	Sold To Non-Timken Customers: Value	External Sales as % of Total Sales
1996	[100	\$100	220	\$220	%]
1997	[45	\$45	100	\$100	%]
1998	[35	\$35	80	\$80	%]
1999	[25	\$20	50	\$45	%]
2000	[60	\$45	100	\$80	%]
2001	[40	\$35	90	\$70	%]

III. ISTIL PRODUCT EXCLUSION REQUEST RESPECTING BARS OVER 6.5" IN DIAMETER

ISTIL requests the exclusion of "carbon and alloy steel hot rolled and cold finished bars of a diameter 6.5 inches or greater classified under these HTS numbers: 7214.99.0015, 7214.50.0030 {*sic*}, 7214.99.0045, 7215.50.0015, 7215.50.0060, 7215.50.0090, 7228.30.8050, and 7228.50.5050."¹⁴ The bases of ISTIL’s request are (1) Timken is the sole domestic producer of these products and has “limited” capacity, and (2) Timken does not offer carbon steel bars.

Timken opposes exclusion of those products for which ISTIL seeks exclusion that are 12 inches or less in diameter (*i.e.*, those products that range in size from 6.5 through 12 inches in diameter. As the attached Affidavit reviews, Timken has capacity to produce the products in this

¹² Timken does not here address Ovako’s argument that integrated consumption means that there is no competition as it is not relevant.

¹³ Data Source: *see* attached Affidavit. Note all 2001 data in this and other tables is for first ten months of 2001.

¹⁴ ISTIL Exclusion Request (November 13, 2001) at 1 (“ISTIL ER”).

size range for which ISTIL seeks exclusion, including carbon steel bars. *See* Affidavit at 3.

Moreover, [**re capacity**] *Id.* Table 4 below presents Timken's production figures for the past five years for carbon and alloy steel hot rolled and cold finished bars ranging in size from 6.5 to 12 inches in diameter.

Table 4: Timken Carbon and Alloy Steel Hot Rolled and Cold Finished Bars from 6.5" to 12" in Diameter Sales¹⁵ (Indexed Numbers)		
Year	Tons	Value
1996	[100]	\$100
1997	[105]	\$105
1998	[120]	\$120
1999	[85]	\$80
2000	[85]	\$80
2001	[65]	\$60

This data makes it clear that Timken is a major producer of carbon and alloy steel bars with diameters ranging from 6.5 inches to 12 inches.

IV. ASCOMETAL PRODUCT EXCLUSION REQUEST RESPECTING CERTAIN LARGE BAR

Ascometal requests the exclusion of "certain hot-rolled and rough-turned alloy steel bar above 6 inches in diameter" that is designated as AISI 4100 and 4300 steel and classified under the following sudheadings: 7228.50.50.50 and 7228.30.80.50 HTS.¹⁶ Ascometal claims that such products are "used primarily in oil and gas drilling."¹⁷ Ascometal further claims that there is "insufficient domestic supply" of such product because Timken "must allocate some of its

¹⁵ Data Source: *see* attached Affidavit. Note all 2001 data in this and other tables is for first ten months of 2001.

¹⁶ *See* Ascometal Request for Exclusion of Certain Hot-rolled and Rough-turned Alloy Steel Bar Above 6 Inches in Diameter (November 13, 2001) at 1.

¹⁷ *See* Ascometal Request for Exclusion of Certain Hot-rolled and Rough-turned Alloy Steel Bar Above 6 Inches in Diameter (November 13, 2001) at 1.

production to the domestic automotive industry."¹⁸

Ascometal's assertion that Timken is unable to supply the energy market is incorrect. First, the AISI 4100 and 4300 series referenced by Ascometal are among the most standard alloy steels that Timken produces. Second, as the following table demonstrates, over the last four years, Timken has made significant shipments of large bar into both the energy and automotive sectors.

Table 5: Timken Shipments of Large Bar (> 6" in diameter) Tons¹⁹ (Indexed Numbers)		
Year	Energy Sector (oil & gas)	Automotive Sector
1996	[130]	40]
1999	[190]	50]
1998	[100]	100]
1999	[30]	110]
2000	[175]	100]
2001	[165]	55]

In fact, Timken has more than sufficient capacity and ability to supply the quality of product needed by the domestic market for this product. Through continuous improvement efforts and capital investment, Timken now has the capacity to produce [

describes tonnage] Accordingly, as capacity to produce large bar is not an issue, the TPSC should reject the Ascometal product exclusion request.

V. UNIVERSAL BEARINGS, NTN, USA, AND ASCOMETAL PRODUCT EXCLUSION REQUESTS RESPECTING WIRE ROD AND BAR

Universal Bearings has requested that the USTR exclude all 52100 hot-rolled wire rod

¹⁸ See Ascometal Request for Exclusion of Certain Hot-rolled and Rough-turned Alloy Steel Bar Above 6 Inches in Diameter (November 13, 2001) at 1-2.

(HTS 7227.90.2030).²⁰ NTN, USA requests exclusion of "SAE 52100 - Spherodized Annealed Wire Rod" classified under 7227.90.20.30 HTS and "SAE 52100 - Hot Rolled Wire Rod" classified under 7227.90.20.30 HTS.²¹ Ascometal requests the exclusion of "certain bearing quality alloy bar used in antifriction bearings systems" that is classified under the subheading 7227.90.10.30 HTS.²²

Universal's request is not limited to any particular size range. The public version of NTN's request fails to provide any product description or specifications. Ascometal claims that Timken does not produce sufficient quantity of bearing grade bar and does not produce wire rod.²³ So far as Timken is aware, there is little, if any, wire rod that is equal to or greater than 1 inches in diameter. *See* Affidavit at 4. As a practical matter, coiled rod with such a diameter would be extremely unwieldy and probably dangerous. Straight lengths of rod of such a diameter are, by some definitions, bar. As the Affidavit indicates, Timken does not make any 52100 wire rod. However, at diameters of 1 inches and greater, any imports characterized as "rods" would be in direct competition with Timken's bars. *Id.* Thus, there is no basis for excluding this product from remedial coverage under Section 203.

As a practical matter, the President should limit any exclusion of 52100 wire rod by specifying a maximum diameter of less than 1 inches. This will preclude importers of products that would by most definitions be characterized as bars from importing them as rods with large diameters and so evade any remedy ordered by the President.

¹⁹ Note all 2001 data in this and other tables is for first ten months of 2001.

²⁰ Universal Bearings Exclusion Request (November 13, 2001) at 1.

²¹ NTN Requests for Exclusion (November 13, 2001) at 3-4.

²² Ascometal Bearings Exclusion Request (November 13, 2001) at 1.

²³ Ascometal Bearings Exclusion Request (November 13, 2001) at 1-2.

VI. THYSSEN PRODUCT EXCLUSION REQUEST RESPECTING CARBON STEEL BILLETS

Thyssen Specialty Steels (Thyssen) has requested that the USTR exclude certain "'carbon steel billets of square cross section with carbon 0.25% or greater' used for forging applications," classified under subheading 7207.20.0025.²⁴ Thyssen acknowledges that this product is covered by an affirmative injury determination of the International Trade Commission.²⁵ Thyssen argues, however, that the ITC mistakenly categorized certain products classified under subheading 7207.20.0025 as flat-rolled products.²⁶ Thyssen does not claim that the domestic industry does not produce this product or that the domestic industry does not produce sufficient quantities of the product.²⁷

The TPSC should not allow Thyssen to re-argue here the injury determination of the ITC or the intent of the ITC in including 7207.20.0025 HTS within this category. The TPSC should address two questions: (1) is the product at issue covered by the ITC's injury determination?, and (2) is the product at issue produced by the domestic industry? The answer to both questions is Yes. Thyssen's request itself acknowledges that the product is covered by the ITC's affirmative injury determination and that Timken and other domestic producers (RTI, Ispat Inland) manufacture this covered product.²⁸ Accordingly, the TPSC should deny Thyssen's product exclusion request.

²⁴ Thyssen Specialty Steels, Inc. Exclusion Request (November 13, 2001) at 1.

²⁵ Thyssen Specialty Steels, Inc. Exclusion Request (November 13, 2001) at 1, 2.

²⁶ Thyssen Specialty Steels, Inc. Exclusion Request (November 13, 2001) at 1, 2.

²⁷ Thyssen Specialty Steels, Inc. Exclusion Request (November 13, 2001) at 2-3.

²⁸ Thyssen Specialty Steels, Inc. Exclusion Request (November 13, 2001) at 2.

VII. NTN PRODUCT EXCLUSION REQUESTS RESPECTING BEARING QUALITY BAR, HOT ROUND BAR, AND SBM40

A. General

NTN has made requests for exclusion of a series of products from the coverage of any Section 203 remedy.²⁹ Unfortunately, NTN has blanked out much of the information that describes the products for which it seeks exclusion. Because this information is missing, it is virtually impossible for Timken or for any other domestic producer to identify the products included in NTN's requests. This means that domestic producers cannot advise the USTR as to whether or not they produce these products. Timken and other domestic producers make broad ranges of products with extensive coverage so that it is likely that they are already producing these grades of product. Thus, absent specific public descriptions of these products, the USTR cannot reasonably recommend that any of NTN's products be excluded, and Timken asks that the requests be denied on this basis alone.

Timken identifies by product missing information that would allow domestic steel producers to respond to its requests below. To the extent that NTN has provided public information that suggests that it is requesting exclusion of products that it produces, Timken responds as best it can.

B. Bearing Quality Bar

NTN requests the exclusion of "Bearing Quality Bar per ASTM A-534" from the scope of a section 203 remedy.³⁰ The TPSC should deny this request.

First, in the public version of its request, NTN has deleted in full the product

²⁹ NTN Requests for Exclusion (November 13, 2001).

³⁰ NTN Requests for Exclusion (November 13, 2001) at 2.

description.³¹ The burden of demonstrating a valid basis for exclusion rests with the party making the request. Without an adequate public description of the product at issue, Timken and other domestic producers are denied an opportunity to address NTN's request specifically. For this reason alone, NTN's request should be denied.

Second, bearing quality bars conforming to ASTM A-534 are carburizing grades of steel bar that Timken produces. Thus, there is domestic production of this product.

Third, although NTN claims that ASTM A-534 is a "non-standard grade made to NTN, USA's specifications," and that "domestic sources of supply for similar bar are unable to adequately supply NTN, USA's needs," the public version of NTN's request again deletes all information about the identity of the U.S. sources of "similar bar."³² Timken thus is denied information necessary to respond adequately to NTN's claims. Accordingly, the TPSC should deny NTN's request.

C. Special Bearing Quality Steel Bar

NTN requests the exclusion of "Special Bearing Quality Steel Bar per ASTM A-535" from the scope of a section 203 remedy.³³ The TPSC should deny this request.

As with Bearing Quality Bar per ASTM A-534, above, NTN has deleted in full the product description in the public version of its request.³⁴ For this reason alone, NTN's request should be denied.

Moreover, we note that ASTM A-535 was discontinued as a specification by the ASTM in 1998. The ASTM manual for 2000 (at 327) notes that the A-535 designation "was

³¹ NTN Requests for Exclusion (November 13, 2001) at 2.

³² NTN Requests for Exclusion (November 13, 2001) at 2.

³³ NTN Requests for Exclusion (November 13, 2001) at 2.

³⁴ NTN Requests for Exclusion (November 13, 2001) at 2.

discontinued in November 1998 due to non-use by the bearing industry." Thus, NTN's exclusion request for this product is inadequate in its basic ASTM designation. TPSC should deny NTN's request.

D. Hot Rolled Round Bar

NTN requests the exclusion of "Hot Rolled Round Bar (SAE 1053 and SAE 1040)."³⁵ NTN states that "SAE 1053 is used to make forgings" and that "SAE 1040 is used for constant velocity joint shafts."³⁶ The TPSC should deny this request.

As with the products above, NTN has deleted from the attachment to its the public version of its request all information regarding product specifications for hot rolled round bar. Without an adequate product description, Timken is denied the opportunity to respond to NTN's specific product exclusion request.

Moreover, Timken produces hot rolled round bar in the same SAE 1053 and 1040 specifications noted by NTN, and Timken produces hot rolled round bar for the same applications noted, in particular, for constant velocity joint shafts. Thus, there is domestic production of the products in question.

Finally, NTN provides no support for its assertion that U.S. producers, including Timken, are not capable of producing the product "in the required qualities" for NTN, USA and other U.S. consumers.³⁷ As noted above, Timken and other U.S. producers cannot respond specifically to NTN's product specifications because NTN has deleted all such information from its public version request. Because NTN fails to state and support a valid basis for its exclusion request, the TPSC should deny NTN's request.

³⁵ NTN Requests for Exclusion (November 13, 2001) at 5.

³⁶ NTN Requests for Exclusion (November 13, 2001) at 5.

E. SBM40

NTN requests the exclusion of a product described as "SBM40."³⁸ NTN provides virtually no other information regarding this product. This is, in effect, a "black hole" product. First, NTN refers to an attachment for information about product description. The attachment is deleted from the public version of its request. Second, as to producers of this product, NTN notes that it will supply the information "as it becomes available."³⁹ Third, NTN provides no information concerning U.S. consumption of the product. Fourth, NTN states there is no U.S. production of the product, there are no substitute products, and U.S. producers do not make products to the required specifications.

In the guise of a product exclusion request, NTN has provided no information at all to which Timken or any other U.S. producer can respond. Timken does not know to what type of product the designation "SBM40" refers, and therefore cannot respond. NTN's request with respect to "SBM40" is wholly inadequate and incomplete on its face, and should be dismissed outright by the TPSC.

VIII. CONCLUSION

The Timken Company makes significant quantities of "ball bearing steel" in sizes 1 inches and greater. Similarly, The Timken Company is a domestic producer of carbon and alloy steel hot rolled and cold finished bars greater than 6 inches in diameter, and of carbon steel billets. The ITC has found that the domestic industry that makes these products has suffered

³⁷ NTN Requests for Exclusion (November 13, 2001) at 5.

³⁸ NTN Requests for Exclusion (November 13, 2001) at 5.

³⁹ NTN Requests for Exclusion (November 13, 2001) at 5.

serious injury.⁴⁰ As we have reviewed above, there is no factual or legal basis for the President to exclude these products from import relief under Section 203. For these reasons, we urge the USTR not to recommend that the President exclude these products from any Section 203 remedy.

Respectfully submitted,

Terence P. Stewart
William A. Fennell
Patrick J. McDonough
Special Counsel to The Timken Company

⁴⁰ United States International Trade Commission Press Release detailing its determinations concerning impact of imports of steel on U.S. industry (10/23/01) (Inv. No. TA-201-73).

**Public Version of
EXHIBIT 1**

Public Version

Before the United States International Trade Commission
Washington, DC

Steel
Inv. No. TA-201-73

Affidavit of [**Name**]
[**Position**]
The Timken Company
1835 Dueber Ave., S.W.
Canton, Ohio 44706

I, [**Name**] being duly sworn, do hereby attest as follows:

1. I presently reside at [**Address**] I have worked for The Timken Company for over 34 years. I am presently [**Position**] in the Steel Business of Timken. I have been involved in Timken's steel business for over 30 years.
2. I have a bachelor's degree in business from Miami University of Ohio.
3. As [**Position**] for Timken's steel business, I have responsibility for strategy, planning, customer specifications, scheduling, finance, purchasing and information systems.
4. I am knowledgeable of Timken's steel business and the U.S. steel industry.
5. The term "ball bearing steel" is applied to a variety of steels made in different forms that conform to the ASTM specification A 295, or to a similar specification. This specification includes specifications for a number of different attributes of steel, including chemistry, micro-structure, and physical characteristics such as hardness and tensile strength. Ball bearing steels are also referred to as "52100" steel. This number refers to an AISI SAE standard for general chemistry. There are, however, steels that do not conform to the "52100" specification that are used to make bearings.

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6. The Timken Company produces 52100 steel bar in sizes that range from 1 inches to twelve inches in diameter. Its production of 52100 steel bar for the past five years is as follows:

Timken Sales of 52100 Bar Steel ≥ 1 inches in Diameter ⁴¹ (Indexed Numbers)		
Year	Tons	Value
1996	[100	\$100]
1997	[45	\$45]
1998	[35	\$35]
1999	[25	\$20]
2000	[60	\$45]
2001	[40	\$35]

7. Different steels conform to different specifications that make them suitable for different applications. Ball bearing steels are particularly suited for making ball and roller bearings, but they have other applications. Indeed, as the market table below shows, since 1996, more than [%] of Timken's 52100 steel bars have been sold for applications other than bearing applications. Moreover, Timken distributes the steel through different channels for its different applications.

8. Timken's ball bearing steels are sold to Timken's bearing business for use in making bearings, and they are sold to unrelated third parties that use them to make bearings and other products. Internal consumption accounts for [**certain portion of production**] On the same equipment used to make 52100 steel, Timken also makes non-52100 bearing steel as well as other alloy steels, employing the same production processes such as melting, degassing, and rolling. Timken makes ball bearing steel bars in diameters ranging from 1 inches to twelve inches in diameter.

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9. Timken's sales of 52100 steel bar in sizes from 1 inches to 12 inches in diameter for the last five years and the first ten months of 2001 broken out by bearing and non-bearing applications were (including internal consumption for the production of bearings):

Timken Sales of 52100 Bar Steel \geq 1 Inches in Diameter Bearings v. Other Applications⁴² (Indexed Numbers)					
Year	Tons	Value	Bearing App. Tons	Bearing App. Value	Brg Apps as % of Total
1996	[100	\$100	410	\$470	%]
1997	[45	\$45	110	\$120	%]
1998	[35	\$35	100	\$100	%]
1999	[25	\$20	80	\$70	%]
2000	[60	\$45	130	\$30	%]
2001	[40	\$35	40	\$30	%]

10. Timken's sales of 52100 steel bar in sizes from 1 inches to 12 inches in diameter broken out by internal and external sales were:

Timken Sales of 52100 Bar Steel \geq 1 Inches in Diameter External Sales⁴³ (Indexed Numbers)					
Year	Tons	Value	Sold To Non-Timken Customers: Tons	Sold To Non-Timken Customers: Value	External Sales as % of Total Sales
1996	[100	\$100	220	\$220	%]
1997	[45	\$45	100	\$100	%]
1998	[35	\$35	80	\$80	%]
1999	[25	\$20	50	\$45	%]
2000	[60	\$45	100	\$80	%]
2001	[40	\$35	90	\$70	%]

11. In addition to smaller sizes, Timken manufactures carbon and alloy steel bars in

⁴¹ Note all 2001 data in this and other tables is for first ten months of 2001.

⁴² Note all 2001 data in this and other tables is for first ten months of 2001.

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sizes ranging from 6.5 inches to 12 inches in diameter as follows:

Timken Carbon and Alloy Steel Hot Rolled and Cold Finished Bars from 6.5" to 12" Sales and Value⁴⁴ (Indexed Numbers)		
Year	Tons	Value
1996	[100]	\$100]
1997	[105]	\$105]
1998	[120]	\$120]
1999	[85]	\$80]
2000	[85]	\$80]
2001	[65]	\$60]

The production facilities used to produce these bars had a capacity utilization rate of [%] last year and are operating at a [%] rate this year.

12. Timken does not itself produce 52100 wire rod. There is little, if any, wire rod sold in the U.S. market that is 1 inches in diameter or greater. To the extent that any such wire rod were sold in the market, it would compete directly with Timken's 52100 steel bars.

I further certify under penalty of perjury pursuant to 28 U.S.C. § 1746 that the foregoing is true and correct.

[_____]
[Name]

Executed on: 12/03/01

⁴³ Note all 2001 data in this and other tables is for first ten months of 2001.

⁴⁴ Note all 2001 data in this and other tables is for first ten months of 2001.